



UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Spear, Kenneth

Defendant.

Case No.: *SA 08-452 M*
ORDER OF DETENTION

I.

A. ☒ On motion of the Government in a case allegedly involving:

1. ☐ a crime of violence.
2. ☐ an offense with maximum sentence of life imprisonment or death.
3. ☒ a narcotics or controlled substance offense with maximum sentence of ten or more years.
4. ☐ any felony - where defendant convicted of two or more prior offenses described above.
5. ☐ any felony that is not otherwise a crime of violence that involves a minor victim, or possession or use of a firearm or destructive device or any other dangerous weapon, or a failure to register under 18 U.S.C. § 2250.

- 1 B. () On motion by the Government/() on Court's own motion, in a case
2 allegedly involving:
3 () On the further allegation by the Government of:
4 1. () a serious risk that the defendant will flee.
5 2. () a serious risk that the defendant will:
6 a. () obstruct or attempt to obstruct justice.
7 b. () threaten, injure or intimidate a prospective witness or
8 juror, or attempt to do so.
9 C. The Government ~~(X)~~ is/() is not entitled to a rebuttable presumption that no
10 condition or combination of conditions will reasonably assure the defendant's
11 appearance as required and the safety of any person or the community.
12

13 **II.**

- 14 A. ~~(X)~~ The Court finds that no condition or combination of conditions will
15 reasonably assure:
16 1. () the appearance of the defendant as required.
17 () and/or
18 2. ~~(X)~~ the safety of any person or the community.
19 B. ~~(X)~~ The Court finds that the defendant has not rebutted by sufficient evidence
20 to the contrary the presumption provided by statute. *as to danger*
21

22 **III.**

- 23 The Court has considered:
24 A. (X) the nature and circumstances of the offense(s) charged, including whether
25 the offense is a crime of violence, a Federal crime of terrorism, or involves
26 a minor victim or a controlled substance, firearm, explosive, or destructive
27 device;
28 B. (X) the weight of evidence against the defendant;

- 1 C. (X) the history and characteristics of the defendant; and
 2 D. (X) the nature and seriousness of the danger to any person or the community.

4 IV.

5 The Court also has considered all the evidence adduced at the hearing and the
 6 arguments and/or statements of counsel, and the Pretrial Services
 7 Report/recommendation.

9 V.

10 The Court bases the foregoing finding(s) on the following:

- 11 A. () As to flight risk:

12 _____
 13 _____
 14 _____
 15 _____
 16 _____
 17 _____
 18 _____
 19 _____
 20 _____

- 21 B. (X) As to danger:

22 nature of allegations;
 23 substance abuse history;
 24 admitted ongoing substance abuse problem;
 25 crim history record, ^{which} incl prior
 26 prior conv for a narcotics trafficking
 27 offense; fact that alleged ~~act~~ offense
 28 committed while ^{def still under state supervision} admission to police officer that he's
 been involved in drug trafficking his entire life.

the prior treatment program;

VI.

- 1
- 2 A. () The Court finds that a serious risk exists the defendant will:
- 3 1. () obstruct or attempt to obstruct justice.
- 4 2. () attempt to/ () threaten, injure or intimidate a witness or juror.
- 5 B. The Court bases the foregoing finding(s) on the following:

6 _____

7 _____

8 _____

VII.

- 10
- 11 A. IT IS THEREFORE ORDERED that the defendant be detained prior to trial.
- 12 B. IT IS FURTHER ORDERED that the defendant be committed to the custody of
- 13 the Attorney General for confinement in a corrections facility separate, to the
- 14 extent practicable, from persons awaiting or serving sentences or being held in
- 15 custody pending appeal.
- 16 C. IT IS FURTHER ORDERED that the defendant be afforded reasonable
- 17 opportunity for private consultation with counsel.
- 18 D. IT IS FURTHER ORDERED that, on order of a Court of the United States or on
- 19 request of any attorney for the Government, the person in charge of the
- 20 corrections facility in which defendant is confined deliver the defendant to a
- 21 United States marshal for the purpose of an appearance in connection with a
- 22 court proceeding.

23

24 DATED: _____

9/17/08



ROBERT N. BLOCK
UNITED STATES MAGISTRATE JUDGE